

**Notice of Allowability**

Application No.

09/602,367

Examiner

Thomas J. Lett

Applicant(s)

BERARD ET AL.

Art Unit

2626

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment submitted 13 September 2004.
2. ☒ The allowed claim(s) is/are 1-10.
3. ☒ The drawings filed on 13 September 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
**KIMBERLY WILLIAMS**  
**SUPERVISORY PATENT EXAMINER**

## **DETAILED ACTION**

### ***Allowable Subject Matter***

1. Claims 1-10 are allowed.
2. The following is an examiner's statement of reasons for allowance: Claims 1 and 10 of the current application teach similar subject matter as the prior art of Ogawa et al (US Patent 5,828,780). However, claim 1 is allowed for the reasons pointed out by Applicant's remarks (p10, 6<sup>th</sup> paragraph - p11, 2<sup>nd</sup> paragraph).

It follows that independent claim 10 a method claim containing a similar novelty, is allowable for the same reasons. Claims 2-9 are then inherently allowable for depending on an allowable base claim.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Response to Arguments***

3. The Applicant responds to the objection of informal drawing. The Applicant submitted formal drawings and overcomes the said objection. The Examiner therefore withdraws said objection.

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4. The Applicant responds to the objection of the abstract of the specification. The Applicant amends the abstract of the specification and overcomes the said objection to the abstract. The Examiner therefore withdraws the said objection.

5. The Applicant responds to the objections of the disclosure. The Applicant amends the disclosure and overcomes the said objections. The Examiner therefore withdraws said objections.

6. The Applicant responds to the objections of claims 1 and 7. The Applicant amends said claims and overcomes the said objections. The Examiner therefore withdraws said objections.

7. Applicant's arguments, see p.10, paragraph 6 – p.11, paragraph 2 filed 13 September 2004, with respect to claims 1, 2, and 7-9 have been fully considered and are persuasive. The rejections of claims 1, 2, and 7-9 have been withdrawn.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Lett whose telephone number is 703-305-8733. The examiner can normally be reached on 7-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kimberly Williams can be reached at 703-305-4863. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, DC 20231

**or Faxed to:**

(703) 872-9314 (for Technology Center 2600 only).

**Hand-delivered** responses should be brought to:

Crystal Park II

2121 Crystal Drive

Arlington, VA

Sixth Floor (Receptionist).

TJL

(TJL)

*KA Williams*

**KIMBERLY WILLIAMS  
SUPERVISORY PATENT EXAMINER**